



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 9733620

Date: JULY 10, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner, a software development and IT consulting company, seeks to employ the Beneficiary as a software QA engineer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition, concluding that the Beneficiary's master's degree was issued by an unaccredited university and therefore did not satisfy the educational requirements of the requested immigrant classification and the terms of the labor certification accompanying the petition.

The Petitioner bears the burden of establishing eligibility for the requested immigration benefit. *See* section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

Immigration as an advanced degree professional usually follows a three-step process. First, to permanently fill a position in the United States with a foreign worker, a prospective employer must obtain a certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). The employer next submits the DOL-issued labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). Section 204 of the Act, 8 U.S.C. § 1154. If USCIS approves the petition, a foreign national may apply abroad for an immigrant visa or, if eligible, for adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

For employment-based immigrant petitions requesting advanced degree professional classification, the beneficiary must possess an "advanced degree," which is defined as (a) an academic or professional degree above a bachelor's degree; or (b) a bachelor's degree followed by at least five years of progressive experience. *See* 8 C.F.R. § 204.5(k)(2).

The beneficiary must also satisfy the minimum requirements of the offered position as set forth in the accompanying labor certification by the priority date. 8 C.F.R. § 103.2(b)(1), (12). *See Matter of*

Wing's Tea House, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977); *see also* *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). In this case, the labor certification states that offered position requires a master's degree in engineering or a related field of study. The labor certification does not permit an alternate level of education or an alternate combination of education and experience.

The Beneficiary in this case possesses a master's degree in software engineering from [redacted] University in [redacted], California. The degree was issued on August 31, 2011. On this date, the university was "pre-accredited" by [redacted]. *See* [https://www\[redacted\]org/institutions/\[redacted\]university](https://www[redacted]org/institutions/[redacted]university) (last visited June 19, 2020). The university did not obtain full accreditation until December 1, 2012, after the Beneficiary was issued his degree. *Id.*; *see also* [https://ope.ed.gov/dapip/#/institution-profile/\[redacted\]](https://ope.ed.gov/dapip/#/institution-profile/[redacted]) (last visited June 19, 2020). According to [redacted] pre-accreditation "is not accreditation and does not assure eventual accreditation. It is an indication that an institution is progressing toward accreditation." *See* [https://www\[redacted\]org/directory/legend](https://www[redacted]org/directory/legend) (last visited June 19, 2020).

Although currently accredited by [redacted], [redacted] University is currently under an "Order to Show Cause" to address its noncompliance with multiple standards of accreditation. *See Report of the [redacted] Team Special Visit to [redacted] University* (Feb. 2020), [redacted] (last visited July 6, 2020).

In the United States, the federal government does not directly accredit colleges and universities. Rather, the U.S. Department of Education (DOE) "recognizes" accrediting agencies to ensure that they are reliable authorities on educational quality. *See* 34 C.F.R. § 602.1. Recognized accrediting agencies such as [redacted] are private educational associations that develop evaluation criteria reflecting the qualities of a sound educational program, and conduct evaluations to assess whether institutions meet those criteria.

According to the DOE, the primary goal of the accreditation process is to ensure that education provided by institutions of higher education meet acceptable levels of quality. *See* <http://www2.ed.gov/print/admins/finaid/accred/accreditation.html> (last visited June 19, 2020). Accreditation ensures the nationwide recognition of a school's degrees by employers and other institutions and provides institutions and its students with access to federal funding. A degree from an institution that is not fully accredited does not provide a sufficient assurance of quality.

For these reasons, we find an accreditation requirement for U.S. degrees implicit in our regulations pertaining to employment-based immigrant petitions. *See, e.g., Decker v. Northwest Env'tl. Def. Ctr.*, 568 U.S. 597, 613 (2013) (an agency's interpretation of its regulations controls unless plainly erroneous or inconsistent with the regulation). This requirement also helps combat the spread of "diploma mills." *See generally* <https://www2.ed.gov/students/prep/college/diplomamills/diplomamills.html> (last visited June 19, 2020). These unaccredited U.S. colleges and universities charge fees for issuing low-quality degrees, often at the expense of foreign students seeking diplomas for U.S. immigration or employment purposes. *See, e.g.,* Tom Bartlett, Karin Fischer & Josh Keller, *Little Known Colleges Exploit Visa Loopholes to Make Millions Off Foreign Students*, *Chron. Higher Educ.*,

Mar. 20, 2011, <https://www.chronicle.com/article/Little-Known-Colleges-Make/126822> (last visited June 19, 2020).

On appeal, the Petitioner claims that since [REDACTED] University was accredited by the June 28, 2019 priority date of the petition, the Beneficiary's degree meets the educational requirements of the petition. We disagree. A school must be accredited at the time the degree is issued. Otherwise, there is no assurance that the degree resulted from completion of an educational program of minimum acceptable quality.

Because the Beneficiary's master's degree was not issued by an accredited institution of higher education, it does not satisfy the definition of an "advanced degree" under 8 C.F.R. § 204.5(k)(2) nor does it satisfy the educational requirements of the offered position as set forth on the accompanying labor certification.

ORDER: The appeal is dismissed.